HC—78

(95)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक Cr.M.P. NO. 211/2007 सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

SB: HON'BLE SHRI DHIRENDRA MISHRA, J.

APPLICANT — Prabhat Mishra, S/o. Shri R.P. Mishra, aged about 48 years, Working as Sub-Divisional Forest Officer, Katghora, R/o. Distt. Korba (CG)

VERSUS

RESPONDENT

1. State of Chhattisgarh, through P.S. Katghora, Distt. Korba (CG)
2. Samar Singh, S/o Karan Singh, aged about 30 years, R/o Village Kapubehera, P.S. and Tahsil Katghora, Distt Korba (CG)

14-11-2007

Shri P. Diwakar, Sr. Advocate with Shri P.R. Patankar, Advocate, for the petitioner.

Shri G.K. Beriwal, Dy. Adv. General for the respondent No. 1.

Heard.

2. By this petition under Section 482 of Cr.P.C. the petitioner has prayed for quashing of Crime No. 181/2007 registered in Police Station Katghora which has been registered on the direction of the Judicial Magistrate First Class, Katghora on the complaint of non-applicant No. 2.

3. Grievance of the petitioner is that the petitioner is Sub Divisional Forest Officer posted at Katghora. In the intervening night of 13th and 14th September, 2006, a mini matador carrying teak wood was caught by the villagers. However the matter was settled with the

(96)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक Cr. M.P.No. 211/2007 सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

help of respondent No. 2 on payment of Rs. 30,000/- by the owner of the said matador. This fact came to the notice of the present petitioner whereupon two forest officers went to the place of occurrence, they were brutally beaten by the villagers and ultimately they were rescued with the help of police personnel and other forest officers and confiscation proceedings were drawn against the forest offenders and in the said confiscation proceedings, the statement of the complainant Samar Singh was recorded by the superior officers of the petitioner in which the complainant as also other witnesses narrated the sequence of events that took place on the date of incident. On the complaint of aggrieved forest officer, a separate offence has been registered against the respondent No. 2 however just to escape and build up pressure against the forest authorities and the petitioner, a false complaint was lodged against the petitioner before the Judicial Magistrate First Class who in turn without recording the statement under Section 200 of Cr.P.C. straightway directed the concerned police station i.e. Police Station Katghora to register an offence and investigate the matter and since then after registering the offence, investigation is going on against the petitioner under Sections 294, 323 and 506 of I.P.C. and 3(1)(X) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

4. Learned counsel for the petitioner submits that the petitioner is a Government officer and no prosecution can be launched against him without obtaining sanction under Section 197 of the Cr.P.C. He

XI-HC—78

(97)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक Cr. M. P. No. 211/2007 सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

further submits that registration of offence is an abuse of process of law and the same has been initiated to escape the consequence of the offence committed by the complainant himself and in these circumstances, the F.I.R. registered against the petitioner deserves to be quashed.

5. From perusal of the order of Judicial Magistrate First Class, it is clear that a complaint was filed in his Court by the respondent No. 2 and in the said complaint certain allegations were made against the petitioner and after considering the allegations, the Magistrate has only directed the concerned police station to investigate the matter after registering the offence and in the event it is found that some offence has been committed then file charge sheet. Thus, it is evident that the Judicial Magistrate First Class has directed the concerned police station only for investigation under Section 156(3) of Cr.P.C. and it is open to the petitioner to bring all the above facts which have been pleaded in this petition before the investigating officer. The investigation at the inception cannot be quashed.

6. The petition being devoid of substance, deserves to be dismissed and it is dismissed at admission stage itself.

Sd/-
Dhirendra Mishra
Judge

P/-